

AMENDED IN ASSEMBLY MAY 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 363

Introduced by Assembly Member Garcia

February 14, 2003

~~An act to amend Section 1366.1 of the Health and Safety Code, relating to health care service plans. An act to add Sections 17053.15 and 23608.15 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 363, as amended, Garcia. ~~Health care service plans: geographic accessibility standard. Income and corporation tax credits: health care.~~

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Under the act, the department is required to adopt regulations establishing an extended geographic accessibility standard for accessing health care providers served by a health care service plan in counties with a population of 500,000 or less.~~

~~This bill would require the department to revise that standard if it fails to provide access for a significant number of residents in counties with a population of 500,000 or less.~~

~~The Personal Income Tax Law and the Corporation Tax law authorize various credits against the taxes imposed by those laws.~~

~~This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2004, for qualified taxpayers who provide health care coverage for their agricultural employees and their dependents. This bill would limit the aggregate amount of credits~~

allocated to all taxpayers for each taxable year to \$80 million, adjusted, as provided. This bill would provide that each qualified taxpayer receive a credit equal to the taxpayer's pro rata share of the aggregate amount, based upon the amount of health care coverage costs paid or incurred by the taxpayer.

The bill would impose various duties on the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department in administering the bill, as provided.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. — Section 1366.1 of the Health and Safety Code,~~
2 *SECTION 1. Section 17053.15 is added to the Revenue and*
3 *Taxation Code, to read:*
4 *17053.15. (a) For each taxable year beginning on or after*
5 *January 1, 2004, there shall be allowed as a credit as described in*
6 *this section against the "net tax," as defined in Section 17039, to*
7 *a qualified taxpayer who provides health care coverage to his or*
8 *her agricultural employees and their dependents.*
9 *(b) The amount of the credit allowed to a qualified taxpayer*
10 *under subdivision (a) shall be an amount allocated to that*
11 *taxpayer by the Employment Development Department pursuant*
12 *to subdivision (d).*
13 *(c) For purposes of this section:*
14 *(1) "Agricultural employee" means an employee as defined in*
15 *subdivision (b) of Section 1140.4 of the Labor Code.*
16 *(2) "Qualified health care coverage" means health care*
17 *coverage equivalent to a health care service plan under the*
18 *Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2*
19 *(commencing with Section 1340) of Division 2 of the Health and*
20 *Safety Code), or to a plan that would qualify under the Employee*
21 *Retirement Income Security Act of 1974 (P.L. 93-406), as*
22 *amended, and provides substantially the same minimum benefits*
23 *as required under the Knox-Keene Health Care Service Plan Act*
24 *of 1975.*
25 *(3) "Qualified taxpayer" means a taxpayer who either employs*
26 *agricultural employees directly or is a labor contractor that*

1 *employs agricultural employees for use by farmers, who does both*
2 *of the following:*

3 *(A) Provides those employees and their dependents with*
4 *qualified health care coverage in an amount equal to at least 80*
5 *percent of the cost of that coverage.*

6 *(B) Applies to the Employment Development Department, in*
7 *the form and manner prescribed by the department, pursuant to*
8 *subdivision (d) for the credit allowed pursuant to this section. A*
9 *qualified taxpayer will be eligible for the credit for a taxable year*
10 *only if a completed application for that taxable year is filed with*
11 *the Employment Development Department on or before the*
12 *January 31 next following the taxable year for which the credit is*
13 *claimed.*

14 *(d) The Employment Development Department shall do all of*
15 *the following:*

16 *(1) Allocate an aggregate amount of tax credits to all qualified*
17 *taxpayers under this section and Section 23608.15 for each*
18 *taxable year beginning on or after January 1, 2004, in an amount*
19 *equal to eighty million dollars (\$80,000,000) increased annually*
20 *by the California Consumer Price Index.*

21 *(2) For each taxable year, allocate to each qualified taxpayer*
22 *a credit amount computed as follows:*

23 *(A) Divide the amount paid or incurred during the taxable year*
24 *by a qualified taxpayer for qualified health care coverage by the*
25 *sum of all the amounts so paid or incurred by all qualified*
26 *taxpayers during the taxable year for qualified health care*
27 *coverage.*

28 *(B) Multiply the total amount to be allocated for the taxable*
29 *year pursuant to paragraph (1) by the number calculated under*
30 *subparagraph (A) and round the result to the nearest dollar.*

31 *(C) Allocate to the taxpayer a credit in an amount equal to the*
32 *amount calculated under subparagraph (B).*

33 *(3) Provide written notification to each qualified taxpayer of*
34 *his or her credit amount by February 28 of the next following*
35 *taxable year for which the credit is claimed.*

36 *(4) Provide an annual list to the Franchise Tax Board,*
37 *preferably on computer readable form, and in the form and manner*
38 *agreed upon by the Franchise Tax Board and the Employment*
39 *Development Department, of qualified taxpayers and amount of*
40 *credit allocated to each.*

1 (5) Notify all known qualified taxpayers regarding the
2 availability of the credit.

3 (6) Send each known qualified taxpayer an application to
4 participate in the credit allocation for each taxable year to which
5 this section applies.

6 (7) Promulgate rules or regulations as deemed necessary to
7 implement its duties under this section.

8 (e) In the case where the credit allowed by this section exceeds
9 the “net tax,” the excess may be carried over to reduce the “net
10 tax” in the following year, and the succeeding five years if
11 necessary, until the credit is exhausted.

12 (f) Any taxpayer that willfully fails to supply any information
13 under this section with the intent to evade any tax imposed by this
14 part, or who, willfully and with like intent, makes, renders, signs,
15 or verifies any false statement or application under this section or
16 supplies any false or fraudulent information under this section, is
17 punishable as provided by Section 19706, except that the fine
18 imposed may be up to treble the amount specified by Section
19 19706.

20 SEC. 2. Section 23608.15 is added to the Revenue and
21 Taxation Code, to read:

22 23608.15. (a) For each taxable year beginning on or after
23 January 1, 2004, there shall be allowed as a credit as described in
24 this section against the “tax,” as defined in Section 23036, to a
25 qualified taxpayer who provides health care coverage to its
26 agricultural employees and their dependents.

27 (b) The amount of the credit allowed to a qualified taxpayer
28 under subdivision (a) shall be an amount allocated to that
29 taxpayer by the Employment Development Department pursuant
30 to subdivision (d).

31 (c) For purposes of this section:

32 (1) “Agricultural employee” means an employee as defined in
33 subdivision (b) of Section 1140.4 of the Labor Code.

34 (2) “Qualified health care coverage” means health care
35 coverage equivalent to a health care service plan under the
36 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
37 (commencing with Section 1340) of Division 2 of the Health and
38 Safety Code), or to a plan that would qualify under the Employee
39 Retirement Income Security Act of 1974 (P.L. 93-406), as
40 amended, and provides substantially the same minimum benefits

1 as required under the Knox-Keene Health Care Service Plan Act
2 of 1975.

3 (3) “Qualified taxpayer” means a taxpayer who either employs
4 agricultural employees directly or is a labor contractor that
5 employs agricultural employees for use by farmers, who does both
6 of the following:

7 (A) Provides those employees and their dependents with
8 qualified health care coverage in an amount equal to at least 80
9 percent of the cost of that coverage.

10 (B) Applies to the Employment Development Department, in
11 the form and manner prescribed by the department, pursuant to
12 subdivision (d) for the credit allowed pursuant to this section. A
13 qualified taxpayer will be eligible for the credit for a taxable year
14 only if a completed application for that taxable year is filed with
15 the Employment Development Department on or before the
16 January 31 next following the taxable year for which the credit is
17 claimed.

18 (d) The Employment Development Department shall do all of
19 the following:

20 (1) Allocate an aggregate amount of tax credits to all qualified
21 taxpayers under this section and Section 17053.15 for each
22 taxable year beginning on or after January 1, 2004, in an amount
23 equal to eighty million dollars (\$80,000,000) increased annually
24 by the California Price Index.

25 (2) For each taxable year, allocate to each qualified taxpayer
26 a credit amount computed as follows:

27 (A) Divide the amount paid or incurred during the taxable year
28 by the qualified taxpayer for qualified health care coverage by the
29 sum of all the amounts so paid or incurred by all qualified
30 taxpayers during the taxable year for qualified health care
31 coverage.

32 (B) Multiply the total amount to be allocated for the taxable
33 year pursuant to paragraph (1) by the number calculated under
34 subparagraph (A) and round the result to the nearest dollar.

35 (C) Allocate to the taxpayer a credit in an amount equal to the
36 amount calculated under subparagraph (B).

37 (3) Provide written notification to each qualified taxpayer of its
38 credit amount by the February 28 next following the taxable year
39 for which the credit is claimed.

1 (4) Provide an annual list to the Franchise Tax Board,
2 preferably on computer readable form, and in the form and manner
3 agreed upon by the Franchise Tax Board and the Employment
4 Development Department, of qualified taxpayers and amount of
5 credit allocated to each.

6 (5) Notify all known qualified taxpayers regarding the
7 availability of the credit.

8 (6) Send each known qualified taxpayer an application to
9 participate in the credit allocation for each taxable year to which
10 this section applies.

11 (7) Promulgate rules or regulations as deemed necessary to
12 implement its duties under this section.

13 (e) In the case where the credit allowed by this section exceeds
14 the "tax," the excess may be carried over to reduce the "tax" in
15 the following year, and the succeeding five years if necessary, until
16 the credit is exhausted.

17 (f) Any taxpayer that willfully fails to supply any information
18 under this section with the intent to evade any tax imposed by this
19 part, or who, willfully and with like intent, makes, renders, signs,
20 or verifies any false statement or application under this section or
21 supplies any false or fraudulent information under this section, is
22 punishable as provided by Section 19706, except that the fine
23 imposed may be up to treble the amount specified by Section
24 19706.

25 SEC. 3. This act provides for a tax levy within the meaning of
26 Article IV of the Constitution and shall go into immediate effect.
27 as added by Chapter 928 of the Statutes of 2002, is amended to
28 read:

29 ~~1366.1. (a) (1) The department shall adopt regulations on or~~
30 ~~before July 1, 2003, that establish an extended geographic~~
31 ~~accessibility standard for access to health care providers served by~~
32 ~~a health care service plan in counties with a population of 500,000~~
33 ~~or less, and that, as of January 1, 2002, have two or fewer health~~
34 ~~care service plans providing coverage to the entire county in the~~
35 ~~commercial market.~~

36 ~~(2) If the extended geographic accessibility standard fails to~~
37 ~~provide access for a significant number of residents in counties~~
38 ~~with a population of 500,000 or less, the department shall revise~~
39 ~~the standard.~~

~~(b) This section shall not apply to specialized health care service plans or health care service plan contracts that provide benefits to enrollees through any of the following:~~

~~(1) Preferred provider contracting arrangements.~~

~~(2) The Medi-Cal program.~~

~~(3) The Healthy Families Program.~~

~~(4) The federal Medicare program.~~

~~(c) At least 30 days before a health care service plan files a notice of material modification of its license with the department to withdraw from a county with a population of 500,000 or less, the health care service plan shall hold a public meeting in the county from which it is intending to withdraw, and shall do all of the following:~~

~~(1) Provide notice announcing the public meeting at least 30 days prior to the public meeting to all affected enrollees, health care providers with which it contracts, the members of the board of supervisors of the affected county, the members of the city councils of cities in the affected county, and members of the Legislature who represent the affected county.~~

~~(2) Provide notice announcing the public meeting at least 15 days prior to the public meeting in a newspaper of general circulation within the affected county.~~

~~(3) At the public meeting, allow testimony, which may be limited to a certain length of time by the health care service plan, of all interested parties.~~

~~(4) File with the department for review, no less than 30 days prior to the date of mailing or publication, the notices required under paragraphs (1) and (2).~~

~~(d) The department may require a health care service plan that has filed to withdraw from a portion of a county with a population of less than 500,000, to hold a hearing for affected enrollees.~~

~~(e) A representative of the department shall attend the public meeting described in this section.~~

~~SEC. 2. Section 1366.1 of the Health and Safety Code, as added by Chapter 549 of the Statutes of 2002, is amended to read:~~

~~1366.1. (a) (1) The department shall adopt regulations on or before July 1, 2003, that establish an extended geographic accessibility standard for access to health care providers served by a health care service plan in counties with a population of 500,000 or less, and that, as of January 1, 2002, have two or fewer health~~

1 ~~care service plans providing coverage to the entire county in the~~
2 ~~commercial market.~~

3 ~~(2) If the extended geographic accessibility standard fails to~~
4 ~~provide access for a significant number of residents in counties~~
5 ~~with a population of 500,000 or less, the department shall revise~~
6 ~~the standard.~~

7 ~~(b) This section shall not apply to specialized health care~~
8 ~~service plans or health care service plan contracts that provide~~
9 ~~benefits to enrollees through any of the following:~~

10 ~~(1) Preferred provider contracting arrangements.~~

11 ~~(2) The Medi-Cal program.~~

12 ~~(3) The Healthy Families program.~~

13 ~~(c) (1) At least 30 days before a health care service plan files~~
14 ~~for modification of its license with the department in order to~~
15 ~~withdraw from a county with a population of 500,000 or less, or~~
16 ~~a portion of that county, the health care service plan shall hold a~~
17 ~~public meeting in the county or portion of the county from which~~
18 ~~it intends to withdraw, and shall do all of the following:~~

19 ~~(A) Provide notice announcing the public meeting at least 30~~
20 ~~days prior to the public meeting to all affected enrollees, health~~
21 ~~care providers, advocates, public officials, and other interested~~
22 ~~parties.~~

23 ~~(B) Provide notice announcing the public meeting at least 30~~
24 ~~days prior to the public meeting in a newspaper of general~~
25 ~~circulation within the affected county or portion of the affected~~
26 ~~county.~~

27 ~~(C) At the public meeting, allow testimony, which may be~~
28 ~~limited to a certain length of time by the health care service plan,~~
29 ~~of all interested parties.~~

30 ~~(D) Send a summary of the comments received at the public~~
31 ~~meeting to the department.~~

32 ~~(E) Send a summary of the comments received at the public~~
33 ~~meeting to the Centers for Medicare and Medicaid Services if the~~
34 ~~modification would affect Medicare beneficiaries.~~

35 ~~(F) File with the department for review, no less than 30 days~~
36 ~~prior to the date of mailing or publication, the notices required~~
37 ~~under subparagraphs (A) and (B).~~

1 ~~(2) A representative of the department shall attend the public~~
2 ~~meeting.~~

O

